

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC,  
AND TMS, LLC, d/b/a  
COLORADO MOUNTAIN EXPRESS  
-PETITION FOR DECLARATORY ORDER-  
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

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COLORADO PUBLIC UTILITIES COMMISSION'S  
SECOND PETITION FOR ISSUANCE OF SUBPOENA TO APPEAR AT DEPOSITION  
AND TO PRODUCE DOCUMENTS

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Dated: May 27, 2005

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SURFACE TRANSPORTATION BOARD  
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The Public Utilities Commission of the State of Colorado ("CPUC"), by and through the Colorado Attorney General, hereby petitions the Board for issuance of one subpoena to appear at deposition and to produce documents. CPUC requests that the subpoena be addressed to the person identified below. CPUC makes this request in connection with 49 C.F.R. § 1113.2 and §§ 1114.22-25.

As good cause for issuing the subpoena, CPUC states as follows:

1. CPUC is requesting one subpoena be issued to Mr. Mark Uhlfelder, Vice President, S&L Travel Partners, Inc. S&L Travel Partners, Inc., owns travel businesses including but not limited to Aspen Ski Tours, Inc. and Ski.com. S&L Travel Partners, Inc.,

Aspen Ski Tours, Inc. and Ski.com, and shall be referred to collectively as “Aspen Ski Tours” in this petition.

2. The subpoena relates to a deposition that has been prearranged by the undersigned through telephone conversations with Mr. Uhlfelder. The deposition of Mr. Uhlfelder is scheduled for 10:00 a.m., June 7, 2005. The deposition shall take place at the offices of Aspen Ski Tours, located at 210 Aspen Airport Business Center (AABC), Suite AA, Aspen, Colorado 81611.

3. Aspen Ski Tours is one of three unaffiliated third parties that have provided evidence in this matter. Such evidence is set forth in the September 16, 2004 Verified Statement of Mark Uhlfelder that is included as part of the September 24, 2004 Petition for Declaratory Order filed by East West Resort Transportation, LLC and TMS, LLC d/b/a Colorado Mountain Express (“CME”).

4. Aspen Ski Tours is not regulated by the United States Surface Transportation Board or the CPUC. Aspen Ski Tours is a corporation that has, may have, had or may have had a contract or agreement with CME. Further, during 2003, Aspen Ski Tours appears to have booked as many as 5,866 van transfers on CME’s scheduled shuttle service. The purpose of the requested subpoena is at least the following: (1) to obtain a more thorough understanding of the representations made in Mr. Uhlfelder’s September 16, 2004 Verified Statement; (2) to test the substance of representations made in Mr. Uhlfelder’s September 16, 2004 Verified Statement; (3) to obtain and review the business records of Aspen Ski Tours that document the 5,866 van transfers referred to in Mr. Uhlfelder’s September 16, 2004

Verified Statement; and (4) to elicit sworn testimony regarding the process that led up to the preparation of Mr. Uhlfelder's September 16, 2004 Verified Statement.

5. Mr. Uhlfelder has indicated to CPUC his willingness to appear at the taking of a deposition on June 7, 2005 and to produce the requested documents, but only in response to a subpoena. Thus, the subpoena is necessary to assure the appearance of Mr. Uhlfelder to testify at the taking of the scheduled deposition and to produce the requested documents.

6. Aspen Ski Tours possesses information that would not otherwise be available to CPUC absent the individual testimony and absent a subpoena. Further, the attached description of documents to be produced states specifically the documents and business records that CPUC seeks, which documents and business records are integral to the threshold question of the substantiality of CME's 2003 regularly scheduled interstate shuttle service.

7. As a result of CPUC's April 1, 2005 Motion for Extension of Time and the Board's partial grant of that motion by decision served April 8, 2005, the Board understood that CPUC desired to conduct discovery of those persons and entities that provided verified statements to CME's petition for declaratory order. The subpoena sought by this petition flows directly from CPUC's previously approved request to conduct discovery.

8. To the extent the requested documents, or any part of them, are claimed to be confidential or proprietary, and are so marked by Aspen Ski Tours, they will be treated as confidential or proprietary material in accordance with the protective order that was served in this proceeding on May 19, 2005.

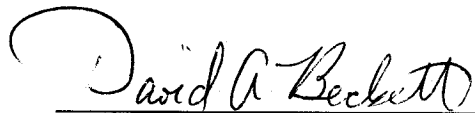
9. A copy of this petition and description of documents to be produced was served on CME. A copy of this petition and description of documents have also been sent to Mr. Uhlfelder.

10. If issued, the subpoena to testify at the taking of a deposition and to produce documents should be addressed to Mr. Mark Uhlfelder, Vice President, S&L Travel Partners, Inc., 210 Aspen Airport Business Center (AABC), Suite AA, Aspen, Colorado 81611. The subpoena is returnable on June 7, 2005, the agreed-upon date of the deposition.

WHEREFORE, CPUC respectfully requests the Board to issue the subpoena addressed to Mr. Mark Uhlfelder of S&L Travel partners, Inc., and include the attached description of documents to be produced.

Dated this 27<sup>th</sup> day of May, 2005.

JOHN W. SUTHERS  
Attorney General



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DAVID A. BECKETT, 23098\*  
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Business and Licensing Section

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\*Counsel of Record

DESCRIPTION OF DOCUMENTS TO BE PRODUCED  
IN RESPONSE TO THE SUBPOENA DUCES TECUM

- a) Each business record of S&L Travel Partners, Inc. and the companies that it owns, including but not limited to Aspen Ski Tours, Inc. and Ski.com (collectively "Aspen Ski Tours"), supporting its belief that Aspen Ski Tours sold 5,866 van transfers on CME's 2003 scheduled shuttle service. To the extent available, the records should identify the name of the customer/passenger, the date(s) CME provided ground transportation, the scheduled route of the van service (e.g., Denver International Airport to Summit, Eagle County Regional Airport to Vail, etc.), whether the customer/passenger acquired airline tickets directly from Aspen Ski Tours as part of a multi-element travel package, whether the customer/passenger acquired any non-air travel components (e.g., lodging, lift tickets, etc.) directly from Aspen Ski Tours as part of a multi-element travel package, and the pertinent flight number and arrival/departure information.
- b) Each letter, electronic mail message, memorandum, note or other document (including any underlying supporting documents) received in 2004 or 2005 by Aspen Ski Tours from CME related to CME's 2003 scheduled ground transportation services. This request includes, but is not limited to, documents received for the purpose of assisting Aspen Ski Tours to determine the number of CME passengers it booked on CME's 2003 scheduled shuttle service.
- c) Each letter, electronic mail message, memorandum, note or other document (including any underlying supporting documents) sent in 2004 or 2005 by Aspen Ski Tours to CME related to CME's 2003 scheduled shuttle service.
- d) To the extent not already produced, each record of Aspen Ski Tours referred to in paragraph 5 of Mark Uhlfelder's verified statement of September 16, 2004, which statement is part of CME's Petition for Declaratory Order in United States Surface Transportation Board Docket No. MC-F-21008.
- e) To the extent not already produced, each record of CME referred to in paragraph 5 of Mark Uhlfelder's verified statement of September 16, 2004, which statement is part of CME's Petition for Declaratory Order in United States Surface Transportation Board Docket No. MC-F-21008.

Aspen Ski Tours may produce these business records and other documents in an electronic format on CD-ROM. If provided on a CD-ROM, please provide the business records in executable format in Microsoft Word or Microsoft Excel or other standard software. Provision of electronic business records in Adobe Acrobat format is acceptable when no standard, executable software version exists (e.g., for documents that must be scanned and not for documents or computer files that have been printed to PDF).

For purposes of the above description of documents, the term "CME" means the scheduled intercity shuttle van service operated by East West Resort Transportation, LLC and TMS, LLC, d/b/a Colorado Mountain Express, as well as its affiliates, employees, agents, contractors, attorneys, and any other representative of East West Resort Transportation, LLC and TMS, LLC, d/b/a Colorado Mountain Express. It does not include charter and special operations, including those that operate under the name of CME Premier.

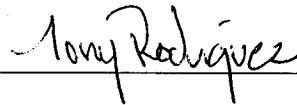
CERTIFICATE OF SERVICE

This is to certify that I have duly served the within COLORADO PUBLIC UTILITIES COMMISSION'S SECOND PETITION FOR ISSUANCE OF SUBPOENA TO APPEAR AT DEPOSITION AND PRODUCE DOCUMENTS upon all parties herein by electronic mail and depositing copies of same in the United States mail, first class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 27<sup>th</sup> day of May, 2005, addressed as follows:

Thomas J. Burke Jr.  
Jones & Keller  
1625 Broadway, Suite 1600  
Denver, CO 80202

Fritz R. Kahn  
Fritz R. Kahn P.C.  
1920 N Street NW 8<sup>TH</sup> Floor  
Washington, DC 20036-1601

Mark Uhlfelder  
Vice President  
S&L Travel Partners, Inc.  
210 AABC, Suite AA  
Aspen, CO 81611

  
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